IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.2583 OF 2007
IN
WRIT PETITION NO.4500 OF 2006

M/s.Poona Bakery Pvt.Ltd. .. Petitioner
Versus
M.S.E.B. Ltd. & Anr. .. Respondent

Mr.Uday Prakash Warunjikar for petitioner
Mr.L.M.Acharya for respondent No.1
Ms.Baxi for respondent No.2.

CORAM : S.C.DHARMADHIKARI, J.
DATE : 23rd November 2007

P.C.

. This civil application is taken out by the petitioner in the present petition which has been admitted by this Court. The application is pursuant to a liberty granted by this Court to apply for interim measures/reliefs.

2. The Court at the stage of admission was not inclined to grant any interim reliefs as the

matter concerned recovery of electricity charges. If the petitioner desires any re-connection of the electric supply to the subject premises, this court was of the view that it must make the payment or otherwise secure dues of the first respondent.

3. Mr.Warunjikar prays for interim reliefs in terms of prayer clause (a) which reads thus:-

> "(a) This Hon'ble Court be pleased to direct the respondent No.1 to award new electricity connection as well as new electric meter to the present applicant in the light of the facts and circumstances mentioned in the Memo of application on such terms and conditions as this Court may deem fit and proper."

4. I have perused the petition and the annexures thereto so also the civil application

and the earlier orders of this Court. Further I have also perused the affidavit filed by the first respondent today to this civil application through its Executive Engineer.

5. To my mind, it is not necessary to go into the rival contentions with regard to the liabilities of the petitioner so also the correctness of the figures of arrears. That aspect would be dealt with at the hearing and final disposal of the petition. Prima facie, the record of first respondent cannot be disputed. More so, in the light of the order passed by this Court while admitting he petition. Therefore, proceeding as I am on the basis that the figures of first respondent are correct, yet, according to Mr.Acharya a sum of Rs.12,92,990 as of November 2006 are in arrears. The petitioner prays for restoration of the electricity supply or awarding new connection.

6. The apprehension of first respondent is that the petitioner is licensee of premises and there is nothing on record to show that the licence is subsisting. To my mind, interest of justice would be sub-served if reconnection/new connection is granted subject to the petitioner complying with the following:-

(a) Petitioner shall deposit Rs..5,50,000/- with the first respondent within a period of four weeks from today;

(b) Petitioner shall furnish bank guarantee of a nationalised bank for the balance sum outstanding;

(c) Director/Authorised Signatory of the petitioner shall file undertaking within two weeks from the date of deposit to the effect that M/s.Poona Bakery Pvt.Ltd. is in use and occupation of the

subject premises and is carrying on bakery business under valid licence from the appropriate authority together with copies of licence/authorisation.

(d) Undertaking should state that the licence is subsisting and that the licence fees are also paid by M/s.Poona Bakery;

(e) The undertaking shall also incorporate the a statement that upon petitioner not being able to prove its case finally before this Court, it shall pay sums as outstanding and claimed as directed along with interest at such rate as this Court will deem fit and proper;

(f) If the cash deposit and bank guarantee is furnished, first respondent to process the application and grant time

to furnish the undertaking in terms of the clauses above. If the undertaking is furnished within the stipulated period, first respondent to grant necessary connection and thereupon, the petitioner shall be liable to pay monthly bills as raised;

(g) If no compliance is made with the aforesaid, the civil application to stand dismissed without any further reference to Court;

(h) If compliance is made as directed then the first respondent to restore and/or grant electricity connection within a period of one week from the date of last compliance.

7. Application disposed of accordingly.

(S.C.Dharmadhikari, J)